

November 27, 2012

House Committee on Natural Resources, Tourism and Outdoor Recreation
The Honorable Frank Foster, Chair

Re: Opposition to HB 5897 Proposed Substitute

Dear Chairman Foster and Members of the Committee:

Michigan has significant hunting and fishing interests in this state that help to provide billions of dollars to the state's economy, and millions in state tax revenues and matching funds for fish and wildlife conservation. MUCC, Ducks Unlimited, the National Wildlife Federation (NWF) and other organizations are a part of that hunting and fishing interest, and we understand the connection between sound and efficient wetlands regulation in Michigan, and good hunting and fishing, as well as a strong business economy.

MUCC's and the undersigned organizations' official policy position is to keep Michigan's wetlands program under state control in lieu of sending that program back to the federal government for management. We believe this allows the state to better promote the conservation of our wetlands resources, while at the same time having an effective and efficient program for businesses to access.

As members of the Wetlands Advisory Council, we have worked with the diverse interests that make up this Council to streamline Michigan's current program, provide necessary updates and address inefficiencies. The Council has worked diligently since 2010 to provide the guidance requested in the previous wetland legislation and to come to consensus on most issues. A final report was submitted to the legislature earlier this year, which included a recommendation that the wetlands program remain in the state and also recommended a funding model to pay for the program in order to keep user fees low. It was extraordinary work considering the diverse interests at the table.

The current substitute being considered for HB 5897 is not only contrary to the recommendations put forth by the Advisory Council, but puts this program in serious jeopardy of being returned to the federal government for management and implementation. The substitution also does not serve the collaborative process that brought forth the recommendations in the first place.

Below are a few of our concerns regarding the proposed substitute that would risk losing state control of our wetlands:

1.) The proposed substitute changes the definition of "significant nexus" and through that change, could de-regulate as much as 50% of our currently regulated wetland resources. The

substitute's definition of significant nexus would require that the wetland be within 100 feet or have a permanent surface water connection. This is a significant change from the EPA's guidance, based on the court decisions of *Rapanos v. United States* and *Carabell v. U.S. Army Corps of Engineers*, which provide direction on how to determine whether a body of water has a "significant nexus" and includes the use of underground water and ecological connection for determination. It is important to note that the EPA guidance in this situation has the force of law.

2.) The proposed substitute also requires the issuance of a general permit without the review process or showing of compliance with the permit review criteria as required by the Clean Water Act. This is a significant departure from EPA guidelines that further puts Michigan at risk of a federal takeover of its wetlands program. This proposal also eliminates public and professional input into the review process, including input from hunting, angling and recreational business interests.

3.) The exemption of ditches could lead to draining significant wetlands that are attached to the ditch. Ditches that are connected to wetlands would be allowed, without a permit, to drain the wetland. This will result in substantial, unregulated habitat loss and is unacceptable. This is habitat loss that would be detrimental to the hunting and fishing interests in this state that help provide billions for Michigan's economy, not to mention the potential effects on flooding, stream flow, or local water quality.

These are just a few of the more pressing issues with the current proposed amendments. These amendments, as well as the failure to address the findings in the EPA's audit of our wetlands program, set Michigan up to have its wetlands program returned to the federal government for implementation. Not only will this result in longer permitting times for businesses, it will also lead to loss of control over our wetland resources that impact numerous outdoors business and sportsmen around the state.

We appreciate your time and consideration of this issue. The undersigned organizations are also willing to work with you and the Committee, as well as House and Senate leadership, to work on a bill that ensures good conservation for Michigan's wetland resources, fish and wildlife, and all the interests that utilize wetlands. If you have any questions, please do not hesitate to contact us.

Sincerely,

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